

# **CITY COUNCIL AGENDA**

**APRIL 27, 2004**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

**Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.htm](http://www.sanjoseca.gov/clerk/agenda.htm)**

**To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.**

**On occasion the City Council may consider agenda items out of order.**

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, Room 600, City Hall  
See Separate Agenda  
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 4)**  
Fil-Am Veterans Rondalla Stringed Instrumental Group
- **Pledge of Allegiance**
- **Orders of the Day**

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

## **1 CEREMONIAL ITEMS**

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- 1.1** Presentation of commendations to Altera, David J Powers and Associates, MCON Construction, The Steinberg Group, and the City of San José's West Valley Branch Library in recognition for being "Green Businesses". (Environmental Services)

## 2 CONSENT CALENDAR

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**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

### 2.1 Approval of Minutes.

### 2.2 Final adoption of ordinances.

### 2.3 Approval of various fiscal actions for Redevelopment Agency Capital Projects.

**Recommendation:**

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in the services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) in the amount of \$397,062:
  - (1) Increasing the appropriation to the Department of Public Works for the Thirteenth Street Streetscape Project (PSM 295#2) by \$337,062;
  - (2) Establish an appropriation to the Department of Transportation for the Delmas Park Traffic Calming Project (PSM 355) in the amount of \$50,000;
  - (3) Establish an appropriation to the Department of Public Works for the Reed Street Park Project (PSM 358) in the amount of \$10,000
  - (4) Increase the estimate for Earned Revenue by \$397,062
- (b) Adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency Funds on certain public improvements in connection with the Delmas Park Traffic Calming Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 10, 2004, and the Reed Street Park Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 23, 2004.

CEQA: Not a Project. Council District 3. SNI: Market/Almaden, Delams Park, and 13<sup>th</sup> Street. (City Manager's Office)

### 2.4 Approval of the City Manager's travel.

**Recommendation:** Approval of City Manger Del D. Borgsdorf's travel to Portland, Oregon, from April 28 – May 1, 2004, to participate in the National League of Cities' Sixth Biennial "Your City's Families Conference." CEQA: Not a Project. (City Manager's Office)

## 2 CONSENT CALENDAR

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### 2.5 Approval of the sale of a public utility easement over City-owned lands.

**Recommendation:** Adoption of a resolution authorizing the sale of a public utility easement over City-owned open space land along Guadalupe Creek for the installation and extension of a waterline to the existing Guadalupe Mines Road waterline; and delegating authority to the Director of the General Services Department to execute all documents necessary to complete transfer of the easement. CEQA: Exempt, PP04-04-120. Council District 10. (General Services)

### 2.6 Approval to award a contract for power washing services for City-owned parking facilities.

**Recommendation:**

- (a) Approval of award of an annual contract for power washing services for the Department of Transportation for City-owned Parking Facilities with Pro Sweep (San José, CA), for a total amount not to exceed \$110,000, and authorize the Director of General Services to execute the service order; and
  - (b) Authorization for the Director to execute one additional one-year option to renew without further Council action other than the appropriation of funds.
- CEQA: PP03-03-080. (General Services)

### 2.7 Approval of an agreement to administer Community Action and Pride Grant funds.

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute a new agreement between the City of San José and Community Foundation Silicon Valley (CFSV) for the administration of Community Action and Pride (CAP) Grant funds. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

### 2.8 Approval of an agreement for animal food for the Animal Care Center.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a two-year agreement with Hill's Pet Food Company to receive animal food at the cost of shipping in exchange for exclusive promotional opportunities to Hill's Pet Food at the City of San José's Animal Care Center. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

### 2.9 Approval of various actions related to the annexation of Evergreen No. 189.

**Recommendation:** Adoption of a resolution initiating proceedings and setting May 11, 2004 at 1:30 p.m. as the date for Council consideration on the reorganization of territory designated as Evergreen No. 189, which involves the annexation to the City of San José of 2.11 acres of land, located at the east side of Ruby Avenue, approximately 250 feet northerly of Murillo Avenue and the detachment of the same from Santa Clara County Central Fire Protection, and Area No. 1 (Library Services) County Service. CEQA: Mitigated Negative Declaration, PDC02-047. Council District 8. (Planning, Building and Code Enforcement)

## 2 CONSENT CALENDAR

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### 2.10 Approval to acquire an easement as part of the Almaden Community Center and Branch Library Project.

**Recommendation:** Approval of an agreement with San José Unified School District to convey to the City of San José an emergency vehicle access easement on a portion of the Simonds Elementary School site at 6515 Grapevine Way, together with a temporary construction easement through May 31, 2006 on another portion of the site. and authorization for the Director of Public Works to execute all documents necessary to complete the transaction. CEQA: Exempt, PP03-11-367. Council District 10. (Public Works)

### 2.11 Approval to convey an easement for an interconnection of water systems near the airport.

**Recommendation:** Approval of an agreement to convey an easement on and under 357 square feet of City of San José-owned property at the intersection of Brokaw Road and Martin Avenue to the City of Santa Clara to allow for placement of a pipeline to connect water systems owned by the San José Water Company and the City of Santa Clara, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transfer. CEQA: Resolution Nos. 67380 and 71451, PP04-03-103. (Public Works)

### 2.12 Approval of actions related to the Rule 20A and Rule 20B Underground Utility Program.

**Recommendation:** Approval of the report for the proposed 2003/04-2008/09 Workplan for the Rule 20A and Rule 20B(In-Lieu Fee) Underground Utility Program and the proposed Rule 20B(In-Lieu Fee) Undergrounding Masterplan. CEQA: Not a Project. (Public Works)

## 2 CONSENT CALENDAR

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### 2.13 Review of the Annual Report on In-Lieu Fees.

**Recommendation:** Review of the Annual Report regarding in lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project. (Public Works)

### 2.14 Approval of an agreement for the Bascom Avenue Median Island Landscaping Project.

**Recommendation:**

- (a) Approval of a first amendment to the agreement with the County of Santa Clara for the Bascom Avenue Median Island Landscaping project, designating the County as the lead agency for project construction; and
- (b) Adoption of the following appropriation ordinance and funding Sources resolution amendments in the Building and Structure Construction Tax Fund:
  - (1) Reduce the appropriation to the Department of Transportation for the Bascom Avenue MIL: Parkmoor to San Carlos appropriation by \$601,000;
  - (2) Increase the Ending Fund Balance by \$7,000; and
  - (3) Reduce the estimate for Earned Revenue by \$594,000.

CEQA: Resolution No. 65459, PP03-06-206. Council District 6. SNI: Burbank/Del Monte. (Transportation/City Manager's Office)

### 2.15 Approval of off-street parking compliance at City-owned or controlled properties.

**Recommendation:** Approval of an ordinance amending Chapter 11.04 and Chapter 11.51 of Title 11 of the San José Municipal Code authorizing the Director of Transportation to regulate and enforce compliance with parking, standing, or stopping of vehicles at any City-owned or controlled property, such as off-street parking facilities, paseos, plazas, and access roads. CEQA: Exempt, File No. PP01-01-008. (Transportation)

### 2.16 Approval to award a contract for the White Road Widening Project.

**Recommendation:** Report on bids and award of contract for the White Road Widening Project - Mabury Road to McKee Road to the low bidder, Redgwick Construction Company, Inc., in the amount of \$406,635, and approval of a contingency in the amount of \$21,000. CEQA: Negative Declaration, PP 03-11-335. Council District 5. (Public Works/Transportation)

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.1 Report of the Study Session Mayor Gonzales, Chair**

#### **3.2 Report of the Rules Committee – April 14, 2004 Vice Mayor Dando, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review April 27 , 2004 Draft Agenda
  - (2) Add New Items to April 20, 2004 Amended Agenda
    - Mayor and Council Member Requests
    - City Manager Requests
    - City Attorney Requests
    - City Clerk Requests
  - (3) List of Reports Outstanding
- (c) Legislative Update
  - (1) State
  - (2) Federal
    - (a) Federal Lobbyist Report
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointment to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Written report on request for deferral for “Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal”
- (h) Oral communications
- (i) Adjournment

#### **3.3 Report of the Making Government Work Better Committee – April 14, 2004 Council Member Campos, Chair**

- (a) Public Works Real Estate Division Audit
- (b) Concentrated Code Enforcement Audit
- (c) Airport Concessions Contracts Audit
- (d) Report on CSA Performance Measurements
- (e) Follow-up Report on the Effectiveness of Current City and RDA Community Outreach
- (f) Special Event Permitting
- (g) Neighborhood Development Center regarding CAP Grant Update
- (h) Call Center Information and Referral Services
- (i) School Crossing Guard Audit
- (j) Single Audit Report
- (k) Management Letter
- (l) Semi-annual Audit Recommendations
- (m) Oral petitions
- (n) Adjournment



### 3 STRATEGIC SUPPORT SERVICES

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#### 3.4 Amendment to Chapter 4.76 of the San José Municipal Code (Business Tax).

**Recommendation:** Approval of an ordinance amending Chapter 4.76 of the San José Municipal Code implementing revisions to the Business Tax, related to exemptions and hardship waivers. (Finance)

#### 3.5 Approval of various actions related to O'Connor Hospital.

**Recommendation:** Approval of various actions, on behalf of Daughters of Charity Health System, regarding the O'Connor Hospital, located at 2105 Forest Avenue, San José, CA 95128:

- (a) Hold a TEFRA Hearing for the issuance of \$550,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Statewide Community Development Authority ("CSCDA"); and
- (b) Adoption of a resolution approving the issuance of Tax-Exempt Fixed Rate Revenue Bonds, Series 2004 by the California Statewide Community Development Authority in an aggregate principal amount not to exceed \$550,000,000 to be used to:
  - (1) Refund existing \$450,000,000 California Statewide Communities Development Authority Series 2001 Fixed Rate Revenue Bonds (the "2001 Bonds");
  - (2) Equip certain hospitals and related facilities; and
  - (3) Pay certain expenses incurred in connection with the issuance of the Bonds.

CEQA: Not a Project. Council District 6. (Finance)

#### 3.6 Approval of actions related to the Customer Service and Performance Managements System Project.

**Recommendation:**

- (a) Adoption of resolution authorizing the City Manager to enter into exclusive negotiations for sixty days for the purchase, installation, and integration of an Integrated Utility Billing, Customer Service and Performance Management System (CUSP) with BearingPoint with the option to commence negotiations with Indus in the event business terms are not reached with BearingPoint.
- (b) Direction for staff to proceed with the necessary actions to expand the City's commercial paper program including the preparation of the necessary amendments to the Trust Indenture, certain financing documents, and preparation of a new Offering Memorandum for the City of San José Financing Authority Tax-Exempt Lease Revenue Commercial Paper Notes (the "CP Notes") for City Council and City of San José Financing Authority Board approval by August 2004.
- (c) Direction for staff to return to Council by August 2004 for Council's approval of a final agreement between the City and the recommended CUSP vendor solution and the related budget appropriations.

CEQA: Not a Project. (Finance/Environmental Services/Information Technology)

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair**

### **4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair**

### **4.3 Public Hearing and approval of the Nevills-Campisi House as a historic landmark.**

**Recommendation:** PUBLIC HEARING and adoption of a resolution designating the Nevills-Campisi House, located on a 0.125 gross acre site at the east side of South 6<sup>th</sup> Street, approximately 150 feet northerly of East San Fernando Street (84 S. Sixth Street), as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature, HL03-149. CEQA: Exempt, HL03-149. Council District 3. SNI: 13<sup>th</sup> Street. (Planning, Building & Code Enforcement)

### **4.4 Approval of various actions related to Housing Program Grants.**

**Recommendation:**

- (a) Adoption of a resolution authorizing the Director of Housing to accept housing program grants from HCD and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following grants:
  - (1) A \$1,000,000 CalHome Program grant to fund the rehabilitation of homes owned by low-income residents;
  - (2) A \$500,000 Exterior Accessibility Grants for Renters (EAGR) program grant to fund exterior accessibility improvements for lower-income tenants living in multi-unit or single-family rental housing units; and
  - (3) A \$1,500,000 Local Housing Trust Fund Program grant for the San José Housing Trust Fund (SHTF) to fund loans for the construction or rehabilitation of rental housing developments affordable to low-income households.
- (b) Approval of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:
  - (1) Increasing the CalHome Program appropriation by \$1,000,000;
  - (2) Establishing a new CalHome (EAGR) appropriation in the amount of \$500,000; and
  - (3) Increasing the estimate for Grant Revenue in the amount of \$1,500,000.
- (c) Approval of the following appropriation ordinance and funding sources resolution amendments in the Housing Trust Fund:
  - (1) Increasing the estimate for Grant Revenue Proposition 46 in the amount of \$1,500,000; and
  - (2) Establishing a Proposition 46 Expenditure appropriation in the amount of \$1,500,000.

CEQA: Not a Project. (Housing/City Manager's Office)

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.5 Presentation on the status of the New Civic Center.**

**Recommendation:** Presentation on the status of the New Civic Center. (City Manager's Office)

## **5 RECREATION & CULTURAL SERVICES**

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### **5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair**

### **5.2 Approval to award a contract for the Almaden Community Center and Branch Library.**

**Recommendation:** Report on bids and take appropriate action based on the evaluation of bids for the Almaden Community Center and Branch Library Project, and approval of a ten percent contingency. CEQA: Mitigated Negative Declaration, PP02-10-309. Council District 10. (Public Works/Library/Parks, Recreation & Neighborhood Services)

## **6 TRANSPORTATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair**

## **6 TRANSPORTATION SERVICES**

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### **6.2 Approval of various actions related to the Oakland Road Widening Project.**

**Recommendation:** Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of:
  - (1) Fee title to a portion of property located at 1212 Oakland Road, owned by R.C.S. Management and Investment Corporation, a California corporation;
  - (2) Six-month temporary construction easement on an adjoining portion of the property; and
  - (3) Two sound wall easements at the northerly and southerly portions of the property.
- (b) Finding that:
  - (1) The property to be taken is necessary for the completion of the Oakland Road street widening project;
  - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
  - (3) City staff established an amount of just compensation not less than the approved appraisal of the fair market value,
  - (4) City staff made an offer to the owners for the full appraised amount; and
  - (5) The proposed taking and use are authorized by law;
- (c) Directing the City Attorney to file an eminent domain action to acquire these property interests.

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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## **8 AVIATION SERVICES**

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### **8.1 Approval to award a contract for facility maintenance, repair, and improvements at the Airport.**

**Recommendation:** Report on bids and award of contract for the Norman Y. Mineta San José International Airport - General Engineering Contract 03-04 to the low bidder, O'Grady Paving, in the amount of \$1,300,000. CEQA: Resolution Nos. 67380, and 71454, PP 04-01-010. (Public Works/Airport)

## **9 PUBLIC SAFETY SERVICES**

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### **9.1 Approval of actions related to the Independent Police Auditor's review of officer-involved shootings.**

**Recommendation:** Approval of specified policies and procedures related to the review of officer-involved shootings resulting in injury or death to a person and fatal incidents involving San José police officers. CEQA: Not a Project (Independent Police Auditor/Police)

## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

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**CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 10.1 AND 10.2 IN A JOINT SESSION**

### **10.1 Presentation on the development and implementation of One-Voice Service Delivery Pilot Projects.**

**Recommendation:** Presentation on the development and implementation of One-Voice Service Delivery Pilot Projects. (City Manager's Office/Redevelopment Agency)  
(Deferred from 4/13/04 – Item 10.1)

## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 10.2 Public Hearing and approval of various actions related to the development of the Vintage Tower Apartments.

**Recommendation:** PUBLIC HEARING and adoption of resolutions:

- (a) Approving the transfer of Redevelopment Agency-owned property, located at 235 East Santa Clara Street (Property), pursuant to a Cooperation Agreement between the City and the Agency to the City.
- (b) Approving the sale from the City to the First United Methodist Church Tower Properties, L. P., (FUMCTP), for \$5,200,000 for the residential tower and an easement for 104 parking spaces in the adjoining parking garage, and to First United Methodist Church Car Barn, (FUMCCB), a California nonprofit corporation, for \$50,000 for the garage encumbered by the easement (Sponsors).
- (c) Approving a loan to First United Methodist Church Tower Properties, L. P., for the acquisition/rehabilitation of the residential building of up to \$2,225,000.
- (d) Accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the Property will provide housing for very low- and low-income persons and is consistent with the Implementation Plans for the San José Merged Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).
- (e) Approving the DDA among the City of San José, the Redevelopment Agency, and the Sponsors for the acquisition and rehabilitation of the Vintage Tower Apartments, a 59-unit mid-rise apartment building located at 235 East Santa Clara Street.
- (f) Authorizing the City Manager and the Executive Director to negotiate and execute amendments to the DDA as may be reasonably required by the Developer's lender, and as necessary to conclude this transaction consistent with the authority granted herein.
- (g) Authorizing the City Manager and the Redevelopment Agency Executive Director to execute such documents as necessary to convey the Property to the Sponsor once the conditions of conveyance have been met.

CEQA: Exempt, PP03-03-090. Council District 3. (City Manager's Office/Redevelopment Agency)

### ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps

- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.
- Adjournment